

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH LITIGATION
This Document Relates To All Actions

14-MD-2543 (JMF)

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**APPLICATION OF DAVID M. BUCKNER AND GROSSMAN ROTH, P.A.
FOR APPOINTMENT TO THE PLAINTIFFS' EXECUTIVE COMMITTEE**

David M. Buckner, an equity partner at Grossman Roth, P.A., in accordance with Pretrial Order No. 5, respectfully submits this application, on behalf of himself and his law firm, for membership on the Plaintiffs' Executive Committee ("PEC") in MDL 14-MD-2543. Mr. Buckner and the attorneys at Grossman Roth have substantial experience in MDL and class action litigation, including having served as Coordinating Counsel in *In re: Checking Account Overdraft Litigation*, No. 1:09-MD-02036-JLK (S.D. Fla.) ("Overdraft Litigation"), achieving more than \$1 billion in settlements on behalf of various bank customers from some of the largest banks in the United States. Mr. Buckner and the attorneys at Grossman Roth have successfully brought and managed complex MDLs and class actions similar to this MDL and have the resources and skills necessary to successfully advance and prosecute this litigation.

Mr. Buckner also brings critical skills and experience to the PEC. After earning his *juris doctor* from Harvard Law School and clerking on the United States Court of Appeals for the Eleventh Circuit, Mr. Buckner served as an Assistant United States Attorney ("AUSA") in the Southern District of Florida for 8 years. During that time he led numerous successful prosecutions of complex frauds and corrupt enterprises. This experience will be invaluable to the PEC given General Motors' ("GM") efforts to illegally conceal the defects in its vehicles. Accordingly, Mr. Buckner respectfully requests that the Court appoint him and his firm to the PEC.

A. Mr. Buckner and the Attorneys at Grossman Roth Have Significant MDL and Class Action Litigation Experience.

Mr. Buckner and the attorneys at Grossman Roth have successfully tried, defended on appeal, and settled numerous MDL and class action lawsuits throughout Florida and across the United States. Grossman Roth is currently serving on the Plaintiffs' Executive Committee and as Coordinating Counsel for the *Overdraft Litigation*, which the Judicial Panel on Multidistrict Litigation consolidated before the United States District Court for the Southern District of Florida. The *Overdraft Litigation* involves class action lawsuits against more than 35 banks, and seeks to recover excess overdraft fees caused by the banks' practice of re-sequencing their customers' transactions from the highest to lowest dollar amounts. Mr. Buckner was one of the primary architects of the litigation strategy and played a pivotal role in successfully certifying numerous classes before the United States District Court, defending those class certifications on Rule 23(f) appeals, and arguing arbitration issues before the United States Court of Appeals for the Eleventh Circuit. As a result of the efforts of Mr. Buckner, Grossman Roth, and other law firms around the country, including the firms of Temporary Lead Counsel, the plaintiffs have recovered more than \$1 billion in the *Overdraft Litigation*, including, among others, a \$410 million settlement with Bank of America, a \$137.5 million settlement with Citizens Bank, and a \$110 million settlement with JP Morgan Chase. For his work in the *Overdraft Litigation*, Mr. Buckner, along with other lawyers from Grossman Roth, was nominated by Public Justice as a finalist for Trial Lawyer of the Year.

Mr. Buckner and the attorneys at Grossman Roth have also served on various steering committees and sub-committees in other MDLs. Mr. Buckner was appointed Liaison Counsel in *In re: Air Crash Near Rio Grande, Puerto Rico on December 3, 2008*, MDL No 2246 (S.D. Fla.), which he will try later this year. Grossman Roth served as the chair of the Insurance Committee

in the litigation arising out of the BP Gulf of Mexico oil spill. *See In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010*, MDL No. 2179 (E.D. La.). Grossman Roth was appointed to the Plaintiffs' Executive Committee in *In re: American Airlines Jamaica Crash*, No. 10-CV-20131 (S.D. Fla), and in *In re Air Crash Near Cali, Colombia on December 20, 1995*, No. MDL 1125 (S.D. Fla.).

Mr. Buckner also served as Class counsel in *Hester v. Vision Airlines*, No. 2:09-CV-00117-RLH (D. Nev. 2009), recovering millions of dollars in hazard pay that a government subcontractor illegally retained despite its obligation to pay that hazard pay to the employees that operated flights into and out of the war zones in Baghdad, Iraq and Kabul, Afghanistan. Mr. Buckner successfully tried *Hester* to a Las Vegas jury and obtained a verdict in the amount of 100% of the Class' damages. Mr. Buckner later argued the appeal in that matter before the United States Court of Appeals for the Ninth Circuit, which affirmed the judgment. Similarly, in *Richmond Manor Apartments v. Certain Underwriters at Lloyds of London*, No. 09-CV-670976 (S.D. Fla.), Mr. Buckner successfully obtained a \$39 million settlement on behalf of a class of Florida property owners seeking the return of assessed hurricane deductibles from a major international insurer.

Grossman Roth also served as Class counsel in *Clements v. JP Morgan Chase Bank, N.A.*, No. 3:12-cv-02179 (N.D. Cal.), and along with attorneys from the firms of Temporary Lead Counsel, obtained a settlement of more than \$22 million on behalf of a class of consumers that were force-placed into home insurance, the majority of which settlement money was actually paid as a claims paid settlement to the Class members. Mr. Buckner also served as Class counsel in *Bruhl v. PricewaterhouseCoopers*, No. 03-CV-23-44 (S.D. Fla.), where a multi-million dollar settlement was obtained on behalf of a class of investors defrauded by a hedge fund manager in a

“marking the close” securities scheme. Mr. Buckner has more than 20 years of legal experience, most of which has been dedicated to prosecuting significant frauds, MDLs, and large class actions.

B. Grossman Roth Has the Time and Resources and the Willingness and Ability to Work Cooperatively with Other Law Firms Involved in Litigating this Case.

As noted above, Mr. Buckner and the attorneys at Grossman Roth have substantial experience in prosecuting class actions and MDLs and fully appreciate the resources that will be required to successfully manage and prosecute this MDL. Due to its success in litigating and trying catastrophic personal injury cases, class actions, and MDLs, and its experience in managing these matters, Grossman Roth has the financial resources and the ability to finance and dedicate the required attorney, paralegal, and clerical time necessary to litigate this MDL. Furthermore, Grossman Roth has previously worked cooperatively with many of the law firms involved in this litigation, including with the firms of Temporary Lead Counsel, and has an established track record of bringing together and managing law firms to successfully prosecute large class actions and MDLs. The excellent relationships Mr. Buckner and the attorneys from Grossman Roth have built with many of the attorneys from the firms involved in this MDL support Mr. Buckner’s appointment to the PEC.

C. Counsel Has Invested Substantial Time in Identifying and Investigating the Claims Against General Motors and is Familiar with the Applicable Case Law.

Grossman Roth is counsel in *Levine v. General Motors, LLC*, No. 1:14-cv-04661 (S.D. Fla.), and *Frank v. General Motors*, No. 1-14-cv-21655 (S.D. Fla.), and has expended substantial resources in investigating and identifying the ignition switch and power steering defect claims against GM. The *Levine* case was consolidated in MDL 14-MD-254 and was one of the first class actions filed against General Motors in Florida alleging that GM had actively concealed

various defects in its ignition system, which resulted in the death of hundreds of individuals and the decreased value of millions of GM vehicles. The *Frank* lawsuit, while initially identified as a tag-along action, was not ultimately consolidated in this MDL. After expending significant time and resources investigating the plaintiff's claims in *Frank*, Grossman Roth was able to determine that there were significant defects in the power steering systems of certain GM vehicles. This was one of the very first power steering defect class actions filed against GM in the United States and reflects the firm's dedication to investigating and unraveling GM's illegal conduct.

Mr. Buckner and the attorneys at Grossman Roth also have substantial experience in personal injury litigation. The firm has successfully litigated catastrophic personal injury cases against nearly all of the major automobile manufacturers in courts around the United States. The unique combination of experience set forth above will make Mr. Buckner and Grossman Roth invaluable additions to the PEC.

D. Mr. Buckner and Grossman Roth Add Important Geographic Diversity to the PEC.

Mr. Buckner and the attorneys of Grossman Roth represent clients around the United States. The firm has offices throughout the state of Florida, including Miami, Key West, Sarasota and Boca Raton. More importantly, its lawyers have successfully litigated class actions and personal injury claims throughout the state. Mr. Buckner and Grossman Roth would bring important geographic diversity to the PEC.

Accordingly, Mr. Buckner respectfully requests that he along with his law firm, Grossman Roth, P.A., be appointed to the PEC. Mr. Buckner also respectfully requests the opportunity to address the Court at the August 11, 2014, Initial Conference to present his qualifications to serve on the Executive Committee.

Dated this 28th day of July, 2014.

/s/ David M. Buckner
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served by electronic mail via the Court's CM/ECF system on all counsel of record on this 28th day of July, 2014.

/s/ David M. Buckner
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